

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION)
CORPORATION,)

Plaintiff-Applicant,)

v.)

BERNARD L. MADOFF INVESTMENT)
SECURITIES LLC,)

Defendant.)

In re:)

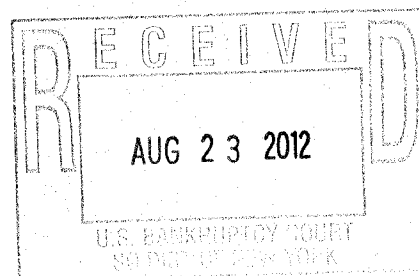
BERNARD L. MADOFF,)

Debtor.)

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)



**MOTION TO REMOVE IRVING H. PICARD AS TRUSTEE FOR THE
SUBSTANTIVELY CONSOLIDATED SIPA LIQUIDATION OF BERNARD L. MADOFF
INVESTMENT SECURITIES LLC AND BERNARD L. MADOFF**

We, Steven Surabian and Richard Surabian having accounts opened directly through Bernard L. Madoff with Bernard L. Madoff Investments Securities LLC ("BLMIS") and as claimants and customers having interest, Motion this Court for the Removal of Irving H. Picard as Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff for the following reasons:

1. On July 26, 2012 Irving H. Picard ("Trustee") as Trustee through his Attorneys, filed Notice of Motion for an Order Approving Second Allocation of Property to the Fund of Customer Property and Authorizing Second Interim Distribution to Customers.
2. Accompanying the Trustee's Motion was a 75 page document titled **Miscellaneous**,

customers of BLMIS that the Trustee was intending on distributing the funds to after Order Approving Second Allocation of Property to the Fund of Customer Property is Approved. See attached Exhibit "A".

3. On page 68 of 75 the name of Martin M. Surabian, Richard Surabian and Steven Surabian are listed as customers Distribution is intended for by the Trustee. See Exhibit "B".

4. The Trustee also attached additional 75 page document titled **File a Motion**, customers of BLMIS that the Trustee claimed the Trustee was intending on distributing the funds to after his Motion was Approved. See attached Exhibit "C".

5. Again on page 68 of 75 the names of Martin M. Surabian, Richard Surabian and Steven Surabian are listed as customers the Trustee intended on distributing assets to if the Motion Authorizing Second Interim Distribution To Customers is Approved. See attached Exhibit "D".

6. Martin M. Surabian, Richard Surabian and Steven Surabian ("Surabians") as customers of BLMIS, Filed Objection to the Second Interim Distribution to Customers on August 7, 2012.

7. On August 15, 2012 Securities Investor Protection Corporation, filed Memorandum of Law of the Securities Investor Protection Corporation in Support of Trustee's Motion for an Order Approving Second Allocation of Property to the Fund of Customer Property and Authorizing Second Interim Distribution to Customers.

8. Kevin Bell certified that true and correct copies of SIPC's Memorandum of Law in Support was mailed to those parties as set forth on attached Schedule A, BLMIS Customers, page 3. See attached Exhibit "E".

9. On page 5 of Kevin Bell's Certificate of Service was listed as customers of BLMIS were the names of Martin M. Surabian, Richard Surabian and Steven Surabian. See Exhibit "F".

10. Also attached to Kevin Bells certificate was a 75 page document titled **File an answer to a motion**, and on page 68 was listed the names of Martin M. Surabian, Richard Surabian and Steven Surabian. See Exhibit "G".

11. On August 15, 2012 the Trustee, Irving H. Picard filed Trustee's Reply to Objections to Trustee's Motion for an Order Approving Second Allocation of Property to the Fund of Customer Property and Authorizing Second Interim Distribution to Customers.

12. No. 4 of the Reply the Trustee indicates the Surabians filed the second objection.

13. Page 7 of the Trustee's Reply, **II. The Surabian Objection** No. 17, the Trustee states that even though the Surabians were listed as customers the Trustee intended on distributing Allocation to if Approved see Exhibits A through G, the Trustee now indicates that he will not distribute to the Surabians if the Second Allocation is Approved. See Exhibit "H".

14. The Trustee claims that this Court has recognized that the Surabians were never customers or creditors of BLMIS, they will not receive any of these funds and have no standing to object to the Motion. The Trustee never attached any Court documents indicating the Surabians at hearing were judged not to be customers and have no standing to object to the Motion. The Court just Overruled the objections and never notified the Surabians that they were not customers.

15. Who else listed as Customers of BLMIS, that the Trustee indicated in his Motion of the Second Allocation to Customers does the Trustee now not intend to Distribute funds to? If no one else, then the Surabians claim that the Trustee is showing prejudice.

15. A Trustee can not deny a claim based on his personal prejudices and if so must be removed by this Court.

17. The Trustee has never meet with the Surabians and only indicated several months ago that he

does not believe the Surabians are customers of BLMIS based on the records of BLMIS.

18. BLMIS records can not be considered as accurate by this court, otherwise customers would own stock in companies that the Court now claims were never purchased by BLMIS, even though the records indicated to the customers that the stock was purchased for the customers.

19. The Surabians were never given accesses to the records of BLMIS to see were and how their assets were diverted and to whom.

20. The Surabians are True Israelites since the time of Jacob but are not and never would be Zionists and they now believe that Madoff being a Zionist and not liking the fact that not only were the Surabians not Zionists but were Anti-Zionists, plained on steeling their assets from the start.

21. Surabians now believe that if Madoff was never found out, that everyone would believe Madoff, that the Surabians never had accounts with BLMIS and he would get all their assets.

22. The Trustee is still willing to believe Madoff's records, not just regarding as he claims that Madoff's records do not indicate the Surabians as customers or at-least deny the Surabians, claiming that Madoff's records do not indicate that the Surabians were customers even if Madoff's records did but also that the Trustee is willing to pay customers as claimed on record even if they may be claiming what should be the Surabians accounts.

23. Martin M. Surabian would also be filing this Motion but has been hospitalized since August 11, 2012 over this Madoff scam and after hearing that the Trustee claims he was not a customer without out ever contacting him.

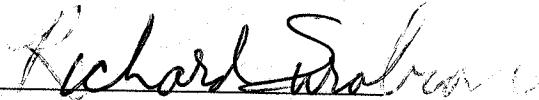
CONCLUSION

WHEREFORE, we, Steven Surabian and Richard Surabian as customers and creditors of

BLMIS pray this Court Allow their Motion to Remove Irving H. Picard as Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff or in the alternative Order the Trustee to Distribute to all Customers that he indicated he intended to distribute to if his Motion Authorizing Second Interim Distribution to Customers is Allowed including the Surabians.



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Richard Surabian Pro se
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CERTIFICATE OF SERVICE

I certify that this 21st day of August, 2012 I served by 1st class US Mail a true copy of Motion To Remove Trustee to the Chambers of the Honorable Burton R. Lifland and (a) Baker & Hostetler LLP, counsel for the Trustee, 45 Rockefeller Plaza, NY, NY 10111, Attn: David J. Sheehan, and (b) the Securities Investor Protection Corporation, 805 Fifteenth Street, NW, Suite 800, Washington, DC 2005, Attn: Kevin H. Bell, Esq. postage pre-paid.



Steven Surabian

EXHIBIT

"A"

EXHIBIT

"B"

EXHIBIT

" C "

File a Motion:

08/01/2012 Southern Live System Corporation v. Bernard L. Madoff Investment Securities, LLC, et al.

U.S. Bankruptcy Court
Southern District of New York

Notice of Electronic Filing

The following transaction was received from David J. Sheehan entered on 7/26/2012 at 11:12 AM and filed on 7/26/2012 at 11:12 AM at Common 623 (BRL) (Case Number: 11-60893-4) (Notice of Motion (2) Exhibit A) (Sheehan, David)

Case Number: 11-60893-4

Document Number: 4929

Notice of Motion:

Notice to Approve MOTION FOR AN ORDER APPROVING SECOND ALLOCATION OF PROPERTY TO THE FUND OF CUSTOMER PROPERTY AND TO APPROVE SECOND ALLOCATION OF PROPERTY TO CUSTOMERS FILED BY David J. Sheehan, Plaintiff of Irving H. Peral, with leaving to be held on 8/22/2012 at 11:12 AM at Common 623 (BRL) (Case Number: 11-60893-4) (Notice of Motion (2) Exhibit A) (Sheehan, David)

The following document(s) are associated with this transaction:

Document Description/Action Document

11-60893-4-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-1219-1220-1221-1222-1223-1224-1225-1226-1227-1228-1229-1230-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EXHIBIT

" D "

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EXHIBIT

" E "

SCHEDULE A

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EXHIBIT

" G "

File an answer to a motion:

08-01789-brl Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities, LLC, et al

U.S. Bankruptcy Court

Southern District of New York

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The following transaction was received from Josephine Wang entered on 8/15/2012 at 5:28 PM and filed on 8/15/2012
Case Name: Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities, LLC, et al
Case Number: 08-01789-brl
Document Number: 4983

Docket Text:

Response to Motion Memorandum of Law of the Securities Investor Protection Corporation in Support of Trustee's Motion for an Order Approving Second Allocation of Property to the Fund of Customer Property and Authorizing Second Interim Distribution to Customers (related document(s)[4930]) filed by Josephine Wang on behalf of Securities Investor Protection Corporation, with hearing to be held on 8/22/2012 (check with court for location) Objections due by 8/8/2012, Reply due by 8/15/2012, (Attachments: # (1) Certificate of Service) (Wang, Josephine)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:Memo of Law - Second Allocation.pdf

Electronic document Stamp:

[STAMP NYSBStamp_ID=842906028 [Date=8/15/2012] [FileNumber=11737455-0]
[319dd05896ab25e986eb33f7c24112547254400f42d11215b903e4e1780e7462c7e4
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Document description: Certificate of Service

Original filename:Second Allocation Memo - COS.pdf

Electronic document Stamp:

[STAMP NYSBStamp_ID=842906028 [Date=8/15/2012] [FileNumber=11737455-1]
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35962ad496a0076997d2cfd7e6e94cdac62d710a68eeb630df70c8929cb]]

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Steven Jaffe 1989 Trust U/D/T DTD 8/24/89 As Amended

Steven P. Heller Trust Robert Saltsman Trustee

Steven Surabian, Richard Surabian, Martin M. Surabian

Beryl Stevens

Fred Stevens on behalf of Defendant Jonathan Greenberg
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Stirs International Investments Ltd

Alexandra Story

Strand International Investments Ltd.

Martha D. Strizich

Gerald Stuhr

Susan Sullivan

Sun Family Trust

Sunyei Ltd-Jacques Lamac

Sunyei Ltd.

Martin M. Surabian

Richard Surabian

Steven Surabian

Susan Miranda Selwyn

Susan Sansone Pension Plan

Susan Schemen Fradin Trustee Rev Agree TST DTD 5/23/2000

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EXHIBIT

" H "

14. The Trustee submits that this language, if approved by the Court and made part of the order on the Trustee's Motion, should resolve the Aufzien Objection as it relates to their avoidance action.

15. The Aufziens, as defendants in pending avoidance actions, should not be permitted to delay distributions based on unsupported damages theories in those actions.

16. In sum, if S&P, P&S, Ms. Del Casino and the Aufziens wish to stall \$1 billion in distributions, they should have provided relevant case law or facts that provide some basis for finding 9% is an appropriate interest rate adjustment to customer claims in a SIPA case. They have not and their objections should be overruled.

II. The Surabian Objection

17. The Surabians object because the Motion does not identify who will receive payments under the Second Interim Distribution. This is untrue. The Motion is clear that allowed customers will receive as little as \$1.493 billion and as much as \$2.427 billion, to be distributed pro rata to customers with allowed customer claims. Because this Court has recognized that the Surabians were never customers or creditors of BLMIS,⁴ they will not receive any of these funds and have no standing to object to the Motion.⁵

⁴ See Order, *In re Bernard L. Madoff Inv. Sec. LLC*, No. 08-01789 (BRL) (Bankr. S.D.N.Y. Apr. 19, 2012) (ECF No. 4779).

⁵ The Surabians also objected to the Trustee's Motion for an Order to Schedule Hearing on "Customer" Issue notwithstanding an identical absence of standing. (ECF No. 2052). The Court overruled the objection and approved the Trustee's proposed briefing schedule. (ECF No. 2205). More recently, the Surabians filed the sole objection to the settlement between the Trustee and Trostanoy Investment Company, Ltd., et al. The objection was overruled by this Court and questioned as confusing and without basis. (Judge Lifland Tr. 8:1 May 16, 2012). The Surabians have also sought to be heard in response to the Scheduling Motion filed by the Trustee on the Time-Based Damages Issue, which the Trustee opposes for the same reasons asserted on each prior occasion. (ECF No. 4920).